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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/994,554	11/27/2001	Kenneth S. Bloom	17724 USA	8757
76254 7590 12/18/2009 REISING, ETHINGTON, BARNES, KISSELLE, P.C. P.O. BOX 4390			EXAMINER	
			HYLTON, ROBIN ANNETTE	
TROY, MI 48099-4390			ART UNIT	PAPER NUMBER
			3781	
			MAIL DATE	DELIVERY MODE
			12/18/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)			
	09/994,554	BLOOM ET AL.			
Office Action Summary	Examiner	Art Unit			
	ROBIN HYLTON	3781			
The MAILING DATE of this communication app Period for Reply	ears on the cover sheet with the c	orrespondence address			
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).					
Status					
Responsive to communication(s) filed on <u>21 Secondary</u> This action is FINAL . 2b) ☑ This Since this application is in condition for allower closed in accordance with the practice under Expression in the practice of the practic	action is non-final. nce except for formal matters, pro				
Disposition of Claims					
 4) Claim(s) 4-8,10,13-20,35-42,44,59,60,64 and 65 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) is/are allowed. 6) Claim(s) 4-8,10,13-20,35-42,44,59,60,64 and 65 is/are rejected. 7) Claim(s) is/are objected to. 8) Claim(s) are subject to restriction and/or election requirement. 					
Application Papers					
9) The specification is objected to by the Examine 10) The drawing(s) filed on is/are: a) accomplished any accomplished and any objection to the Replacement drawing sheet(s) including the correct 11) The oath or declaration is objected to by the Examine	epted or b) objected to by the Eddrawing(s) be held in abeyance. See ion is required if the drawing(s) is obj	e 37 CFR 1.85(a). ected to. See 37 CFR 1.121(d).			
Priority under 35 U.S.C. § 119					
 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 					
Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date	4) Interview Summary Paper No(s)/Mail Da 5) Notice of Informal P 6) Other:	ate			

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DETAILED ACTION

1. Prosecution on the merits of this application is reopened on newly amended claims 16, 38, 59, and 60 considered unpatentable for the reasons indicated below: upon reconsideration of the prior art of record, the previously indicated allowable claims 9, 10, 21, 34-36, 43, and 44 are not seen to be allowable. An action on the merits follows.

Claim Rejections - 35 USC § 103

- 2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
- 3. Claims 4-8,10,13-20, 35-42,44,59,60,64, and 65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takano (US 5,984,124) in view of McBride et al. (US 6,761,275) and Kawchitch (US 3,433,380).

Takano teaches the claimed closure and container except for the resilient liner molded onto the disk **9**. See column 3, lines 19-21 regarding the plastic material. See figure 6 depicting the protrusion **14** extending around a peripheral portion of the flat disk.

McBride teaches it is known to mold a resilient liner **40** onto a disk **30**, wherein the liner sealing material enhances the sealing effect of the liner disc with the bottle neck (Col. 1, lines 56-65).

Kawchitch teaches it is known to provide a closure disc with an annular rib 26 around a radially outer edge of said disk base extending away from a base wall for engaging the disc against a radially outer edge of a container finish when said closure is secured to the container finish and a closure shell having a bead 20 extending radially inwardly from said skirt adjacent to but spaced from said base wall, wherein said annular rib has a concave radially outwardly directed surface portion received over said bead.

See Fig. 3.

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of a resilient liner molded onto the disk for engaging the mouth of an associated container and to provide an annular rib extending from the peripheral edge of the disc having a shape complimentary with the cap shell inner wall bead to provide a more effective and reliable seal between the closure cap and the container.

Regarding the liner as a barrier layer, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the resilient liner of a barrier material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. Doing so maintains the integrity of the container contents against degradation. It is noted that this common knowledge or well-known in the art statement is taken to be <u>admitted</u> prior art because applicant either failed to traverse the examiner's assertion of official notice or that the traverse was inadequate.

Conclusion

- 4. This Office action is made non-final in view of the rejection set forth above.
- 5. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F.R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 2163.06 II(A), MPEP 2163.06 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (571) 272-4540. The examiner can normally be reached daily *except* Wednesday from 9:00 a.m. to 4:00 p.m. (Eastern time). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick, can be reached on (571) 272-4561.

Any inquiry of a general nature or relating to the status of this application or proceeding may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robin A. Hylton/ Robin A. Hylton Primary Examiner GAU 3781

/Anthony Stashick/ Supervisory Patent Examiner, Art Unit 3781

/KAREN M. YOUNG/ Director, Technology Center 3700